



Megyeri v. Germany

App. No. 13770/88, 15 Eur. H.R. Rep. 584 (1993).

Country: Germany

Region: Europe

Year: 1992

Court: European Court of Human Rights European Court of Human Rights

Health Topics: Health care and health services, Mental health

Human Rights: Right to due process/fair trial, Right to health, Right to liberty and security of person

Facts

The applicant, a Hungarian citizen living in Germany, was detained in a psychiatric hospital based on the finding that he had performed acts which constituted criminal offences but for which he could not be held responsible because he was mentally disabled. The applicant instituted numerous proceedings concerning the review of his detention without representation by counsel despite his mental state. All were unsuccessful. The State alleged he did not ask specifically for counsel and pointed out that, as German law required the appointment of counsel in certain circumstances, the court had evidently considered the matter of their own motion. Later, he was placed under guardianship and eventually released on probation to live in a psychiatric hospital. The applicant alleged that the failure to appoint him a lawyer to assist him in Court concerning his possible release had given rise to a violation of Article 5 Â§ 4 (right to take proceedings in Court) of the European Convention on Human Rights (ECHR).

Decision and Reasoning

The Court found that there had been a breach of the applicant's rights to take proceedings before the Court under Article 5 Â§ 4 of the ECHR. The Court stated that a person confined to a psychiatric institution for criminal offences for which he could not be held responsible on account of mental illness, should (save for special circumstances) receive legal assistance in subsequent proceedings relating to the continuation, suspension or termination of his detention.

Decision Excerpts

"22. The principles which emerge from the Court's case-law on Article 5 para. 4 (art. 5-4) include the following.

(a) A person of unsound mind who is compulsorily confined in a psychiatric institution for an indefinite or lengthy period is in principle entitled, at any rate where there is no automatic periodic review of a judicial character, to take proceedings "at reasonable intervals" before a court to put in issue the "lawfulness" - within the meaning of the Convention - of his detention (see, inter alia, the X v. the United Kingdom judgment of 5 November 1981, Series A no. 46, p. 23, para. 52).

(c) The judicial proceedings referred to in Article 5 para. 4 (art. 5-4) need not always be attended by the same guarantees as those required under Article 6 para. 1 (art. 6-1) for civil or criminal litigation. None the less, it is essential that the person concerned should have access to a court and the opportunity to be heard either in person or, where necessary, through some form of representation. Special procedural safeguards may prove called for in order to protect the interests of persons who, on account of their mental disabilities, are not fully capable of acting for themselves (see the Winterwerp v. the Netherlands judgment of 24 October 1979, Series A no. 33, p. 24, para. 60).

(d) Article 5 para. 4 (art. 5-4) does not require that persons committed to care under the head of "unsound mind" should themselves take the initiative in obtaining legal representation before having recourse to a court (see the same judgment, p. 26, para. 66)." Page 8.

"23. It follows from the foregoing that where a person is confined in a psychiatric institution on the ground of the commission of acts which constituted criminal offences but for which he could not be held responsible on account of mental illness, he should - unless there are special circumstances - receive legal assistance in subsequent proceedings relating to the continuation, suspension or termination of his detention. The importance of what is at stake for him - personal liberty - taken together with the very nature of his affliction -

diminished mental capacity - compel this conclusion." Page 8.

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